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8
UNITED STATES DISTRICT COURT

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FOR THE EASTERN DISTRICT OF CALIFORNIA

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DWAYNE MONTGOMERY,

No. 2:22-cv-1156 DC CSK P

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Plaintiff,

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v.

ORDER

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M. CULUM, et al.,

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Defendants.

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On November 19, 2024, defendants filed a motion to dismiss on the grounds that this

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action is barred by the favorable termination doctrine set forth in Heck v. Humphrey, 512 U.S.

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477 (1994). (ECF No. 43.) Plaintiff did not oppose the motion.

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Local Rule 230(l) provides in part: "Failure of the responding party to file written

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opposition or to file a statement of no opposition may be deemed a waiver of any opposition to

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the granting of the motion . . . ." Local Rule 230(l).

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Rule 41(b) of the Federal Rules of Civil Procedure provides:

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Involuntary Dismissal; Effect. If the plaintiff fails to prosecute or
to comply with these rules or a court order, a defendant may move to

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dismiss the action or any claim against it. Unless the dismissal order
states otherwise, a dismissal under this subdivision (b) and any

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dismissal not under this rule—except one for lack of jurisdiction,
improper venue, or failure to join a party under Rule 19—operates as

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an adjudication on the merits.

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1   Fed. R. Civ. P. 41(b).

2   Good cause appearing, IT IS HEREBY ORDERED that, within thirty days from the date

3   of this order, plaintiff shall file an opposition, if any, to the motion to dismiss. Failure to file an

4   opposition will be deemed as consent to have the: (a) action dismissed for lack of prosecution;

5   and (b) action dismissed based on plaintiff's failure to comply with these rules and a court order.

6   Said failure shall result in a recommendation that this action be dismissed pursuant to Federal

7   Rule of Civil Procedure 41(b).

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9   Dated: December 20, 2024

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11 CHI SOO KIM
    UNITED STATES MAGISTRATE JUDGE

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